IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7513 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAGANBHAI MANSUKHBHAI BARAIYA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 7513 of 1994

MR BHARAT T RAO for Petitioner No. 1

MR UDAY BHATT, AGP, for Respondents

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA

Date of decision: 15/09/2004

ORAL JUDGEMENT

1. Petitioner - Shri Maganbhai Mansukhbhai Baraiya, belonging to Baxi Panch, coming from triable area of Limkheda of District Panch Mahals, working as Peon in the office of Respondent - Collector, Panch Mahals, has filed this petition under Article 226 of the Constitution and challenged the impugned order of suspension (Annexure:CC)

dated 27.5.1994 passed by the Collector, Panch Mahals.

2. When this petition was placed for admission on 3.6.1994 it was straightway admitted by issuing Rule on it with the ad.interim relief in terms of Para : 10(B) granted in favour of the petitioner and the respondent Collector was directed to reinstate the petitioner forthwith in service. In pursuance of the interim order passed by this Court the petitioner was reinstated in service.

3. Thereafter, the matter was placed before H.L.Gokhale, J. on 17.12.1994 and the ad.interim relief, granted earlier on 3.6.1994, was confirmed and the petitioner was ordered to continue in service till the Departmental Inquiry initiated against him was completed.

4. Today, Shri Rao, on the instruction from the petitioner, who was personally present before this Court, stated at the Bar that the inquiry against the petitioner is already over last year i.e. in 2003, but no final order is passed in the matter. Be that as it may.

5. The petitioner was placed under suspension under the impugned order dated 27.5.1994 (Annexure:CC) pending Departmental Inquiry. When the said Departmental Inquiry is completed and that the petitioner was continued in service under the interim order of this Court for all this period of more than 10 years then, without going into any other question, the petition is required to be allowed by quashing and setting aside the impugned order of suspension.

6. Accordingly, this petition is allowed and the impugned order of suspension at Annexure ; CC dtd.27.5.1994, passed by the Collector, Panch Mahals, placing the petitioner under suspension is hereby quashed and set aside. Rule made absolute. However, there shall be no order as to costs. Interim relief, granted earlier, stands vacated.

Date : September 15, 2004 (B.J.Shethna, J.)

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